

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MATTHEW MCDONALD,

Plaintiff

v.

UNITED STATES OF AMERICA,

Defendant

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CIVIL NO. 1:13-CV-0117

(Judge Rambo)

(Magistrate Judge Carlson)

MEMORANDUM

I. Introduction

Before the court are two reports and recommendations (Docs. 36 & 41) filed by the magistrate to whom this matter was referred. Ruling on the first report and recommendation (Doc. 36) was deferred pending remand to the magistrate judge. The magistrate judge complied with the directions to obtain additional information and filed the most recent report and recommendation (Doc. 41). No objections to this report and recommendation have been filed and the matter is now before this court. For the reasons stated below, both reports and recommendations will be adopted.

II. Discussion

This action was brought pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2401 *et seq.* and 28 U.S.C. § 2675 *et seq.* arising out of alleged food poisoning at the United States Penitentiary at Canaan. A settlement was reached in a number of related actions. Plaintiff was one of the cases that settled; however, he later filed a motion to enforce the settlement (Doc. 32), claiming he never received his settlement payment. It appeared that the settlement amount was paid by the United States Treasury pursuant to 31 U.S.C. § 3716; 31 C.F.R. § 285.5(a)(1), to offset qualifying debts owed by Plaintiff to a federal, state, or local government.

This court did not and does not dispute the right of the Department of Treasury to make such payment; however, the record was not clear whether plaintiff was privy to information such as to whom and for what purpose the payment was made. Hence, this court remanded the matter to the magistrate judge to obtain clarifying information.

Upon remand, the magistrate judge issued an order (Doc. 37) directing the United States Department of Treasury to comply with 31 C.F.R. § 285.5(g) which is a requirement that gives a payee notice that an offset has occurred; a description of the payment, the amount of debt subject to the offset, and the agency requesting the offset. On May 5, 2014, the United States filed a response (Doc. 40) which attached a copy of the Department of Treasury's September 25, 2013 letter to Plaintiff, in compliance with 31 C.F.R. § 285(g) (Doc. 40-1). In addition, there is an affidavit by an employee of the Bureau of Fiscal Service, United States Department of Treasury, in which he claims that the department complied with the requirements of notice (Doc. 40-2). Therefore, Plaintiff has been given all information that was required.

III. Conclusion

This court is satisfied that the motion to enforce settlement is without merit. The reports and recommendations of the magistrate judge will be adopted. An appropriate order will be issued.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: June 11, 2014.